

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR

ORDER

Shanker Ram

Vs. State of Rajasthan & Anr.

S.B.CR.MISC. PETITION NO.1294/2005

DATE OF ORDER

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November 08, 2006

PRESENT

HON'BLE MR.JUSTICE H.R.PANWAR

Mr.V.K.Mathur, for the petitioner.

Mr. Ashok Upadhyaya, P.P.

Mr. J.S.Choudhary, for non-petitioner No.2.

BY THE COURT:

By the instant criminal misc. petition under section 482 Cr.P.C., the petitioner seeks quashing of FIR No.151 dt. 4.11.2005, Police Station, Lohavat, Distt. Jodhpur.

I have heard learned counsel for the petitioner, Public Prosecutor for the State and the counsel appearing for the complainant. Perused the FIR and the investigation diary.

It is contended by the learned counsel for the petitioner that non-petitioner No.2 Smt. Magga Devi Kumhar is wife of one

Girdhari Lal and not of the deceased Swaroopa Ram. It is further contended that deceased Swaroopa Ram took Hari Ram, the brother of present petitioner in adoption which has been recorded in "Bahi" of Bhatt Community which is maintained in regular course and also in certain other documents and, therefore, he is legal heir of deceased Swaroopa Ram and mutation has been recorded in his name.

Learned Public Prosecutor submits that from the investigation diary, there is evidence that non-petitioner No.2 Smt. Magga Devi, the complainant has been shown as wife of deceased Swaroopa Ram and, therefore, she claims to be the legal heir of the deceased. Be that as it may, in my view, it is not a fit case for quashing the FIR. However, it is open for the petitioner to file the documents on which he relies before the investigating officer and if such documents are filed by the petitioner or his brother Hari Ram, the police shall conduct the investigation with regard to the document so filed by the petitioner.

With these observations, the petition is dismissed. Stay petition also stands dismissed.

[H.R.PANWAR],J.

m.asif/-